

**KIRKLEES METROPOLITAN COUNCIL
INVESTMENT & REGENERATION SERVICE**

DEVELOPMENT MANAGEMENT

Town and Country Planning Act 1990 (as amended) – SECTION 70

DELEGATED DECISION TO DETERMINE PLANNING APPLICATIONS

Reference No:	2023/62/92066/E
Site Address:	89, Whitcliffe Road, Cleckheaton, BD19 3EA
Description:	Erection of two semi detached dwellings with associated alterations
Recommending Officer:	Nicole Helliwell

DECISION – Conditional Full Permission

I hereby authorise the approval of this application for the reasons set out in the officer's report and recommendation annexed below in respect of the above matter.

Sarah Longbottom

AUTHORISED OFFICER

Date: 05 February 2024

Officer Report

Site Description

The application site relates to a parcel of land adjacent to 89 Whitcliffe Road, Cleckheaton which currently serves as part of the curtilage of this dwelling. The site is unallocated on the Kirklees Local Plan and is situated within a predominantly residential area. The surrounding dwellings are highly varied in age, size, style, and materials. The site is not within a conservation area, nor are there any listed buildings or Public Rights of Way (PROW) within close proximity to the site.

Description of Proposal

The applicant is seeking planning permission for the erection of two semi-detached properties with associated external works. The dwellings would be identically sized and would have a width of approx. 5.65m, a depth of approx. 12.8m and an overall height of approx. 9.22m. The proposed dwellings would be constructed in reclaimed stone with natural stone heads and cills and would incorporate dual pitched roofs finished in grey slate. Four off street parking spaces are proposed to the rear of the development, in addition to a further two parking spaces to serve the existing dwelling. Furthermore, areas of private outdoor amenity space would be provided to the rear of the application site which would be enclosed by a 2m high timber fence.

Relevant Planning History

Not Applicable.

Representations

The application was advertised by neighbour letters, which expired on 28th August 2023. Two representations were received following the statutory publicity. The comments made have been summarised below:

- Vehicle Parking - existing property no 89 has seven to eight parking spaces not two as stated in application as such incorrect misleading.
- It has two spaces in the garage and five or six spaces on the drive. With only two spaces planned for future, there would be a substantial loss of parking to such a large existing house.
- The current plan creates six parking spaces for the existing and new residents of the two houses being built, but it removes as many street parking spaces from South Parade as it creates for the new houses.
- The plan also underestimates the number of vehicles per household - the existing house is larger than a three bed, so will need more than two spaces.

- The additional vehicles will expect to use street parking, adding additional pressure to the existing and reduced residents parking.
- Removing spaces from South Parade will push resident and school parking out onto Whitcliffe Road affecting traffic flow, which is already busy/at a standstill at peak times.
- It will also increase the likelihood of accidents, given the proximity of the roundabout and the fact that existing issues with dangerous school parking on South Parade will simply move out onto the main road.
- Additional parking on Whitcliffe Road and loss of parking on South Parade, will also affect the business at the local shop as there will be less opportunity for passing shop customers to park.
- The report that does take into account disruption to residents of the building work.
- Demolishing a garage and a 7 ft wall, and building a semi-detached house will have much more of a disruptive impact on the school during term time.
- The report fails to mention the additional disruption at school drop off and collection as it allows for building work to start at 7am. There will be a direct effect on school parking between 8 and 8.40, which will then cause further noise and traffic disruption to residents.

Following receipt of amended plans, the application was re-advertised via neighbour notification letters, which expired on 22nd November 2023. As a result of the above publicity, three representations have been received. The comments made have been summarised below:

- It would further limit parking for residents and would make it even more difficult for parents dropping and picking their children up from school.
- It would make it near impossible for the access bus to go up and down South Parade like it currently does.
- This would cause a lot of disruption to the already crammed street and after discussion with some neighbours, we would all feel strongly about this NOT taking place.
- Currently, there is not much room to manoeuvre my car when reversing into my drive as there are always existing neighbours cars parked directly opposite, but as more vehicles would be parking on the road, it will become near impossible to reverse into the drive.
- When any of the neighbours have visitors, again, this creates more parking chaos on the street. Additional houses, even though they have their own parking their visitors would need to park on the street, therefore creating more parking chaos.
- The noise, dust levels and all round general disruption that building work inevitably creates will be intolerable.

- Not to mention there will be even more parking chaos on the street as work vans and delivery vehicles will surely all need somewhere to park/offload.
- New build houses are going to spoil the overall aesthetic look and feel of South Parade.
- All the houses on this street are of a Victorian nature and new houses are going to stand out like a sore thumb.
- The positioning, density and scale of the development will substantially block out the sunlight currently enjoyed into the front bay windows, patio and garden area at Grove House.
- The siting of the dwellings just 1.6m from the boundary with Grove House would have a significant impact on residential amenity through overshadowing and overdominance.
- It would also create problems in the future in terms of their being insufficient room for maintenance and also potential fire spread risks from the closeness of the two properties.
- It is noted also that kitchen windows are shown in the side elevation of the plot facing towards Grove House. Whilst the drawings indicate that these will be obscure glazed this is not an ideal solution to overcome what is a shortfall in minimum distance standards.
- The proposed semi-detached dwellings would be set back some distance from South Parade and will project further to the rear, which would be out of keeping with the general grain of the area and the character and layout of existing buildings.
- The impact of providing parking at the rear of the site, has resulted in garden space being lost. For three bedroom dwellings, the level of garden space provided is inadequate and would not provide a high standard of amenity for future occupants.
- The parking layout, whilst in theory providing sufficient parking for the houses, is by necessity of the siting of the dwellings, set out in a tandem form, which in practice does not work and would likely result in vehicles parking on the roadside rather than in the spaces proposed.
- The provision of pedestrian footpaths to the dwellings at the front from South Parade would also encourage roadside parking.
- The development would add further parking onto the street and this would be to the detriment of highway safety.

Consultation Responses

The following is a brief summary of Consultee advice (more details are contained in the 'Assessment' section of the report, where appropriate):

The Coal Authority - No objections subject to recommended conditions

KC Environmental Health - No objections subject to recommended conditions

KC Highways Development Management – No objections subject to recommended condition

KC Ecology - No objections, as the proposals will not negatively impact ecological features.

Planning Policy Background

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for Kirklees is the Local Plan (adopted 27th February 2019).

The site is UNALLOCATED on the Kirklees Local Plan Proposals Map. The most relevant policies for consideration in this case are:

- **LP 1** - Achieving Sustainable Development
- **LP 2** - Place Shaping
- **LP 3** - Location of New Development
- **LP 7** - Efficient and Effective Use of Land
- **LP 11** - Housing Mix and Affordable Housing
- **LP 20** - Sustainable Travel
- **LP 21** - Highways and Access
- **LP 22** - Parking
- **LP 24** - Design
- **LP 26** - Renewable and Low Carbon Energy
- **LP 28** - Drainage
- **LP 30** - Biodiversity & Geodiversity
- **LP 33** - Trees
- **LP 51** - Protection and Improvement of Local Air Quality
- **LP 52** - Protection and Improvement of Environmental Quality
- **LP 53** - Contaminated and Unstable Land

National Policies and Guidance

National planning policy and guidance is set out in National Policy Statements, primarily the National Planning Policy Framework (NPPF) updated December 2023, the Planning Practice Guidance Suite (PPGS) first launched 6th March 2014 together with Circulars, Ministerial Statements and associated technical guidance. The NPPF constitutes guidance for local planning authorities and is a material consideration in determining applications. Most specifically in this instance, the below chapters are of most relevance:

- **Chapter 2** - Achieving Sustainable Development

- **Chapter 4** - Decision-Making
- **Chapter 5** - Delivering a Sufficient Supply of Homes
- **Chapter 9** - Promoting Sustainable Transport
- **Chapter 11** - Making Effective Use of Land
- **Chapter 12** - Achieving Well-Designed Places
- **Chapter 14** - Meeting the Challenge of Climate Change, Flooding and Coastal Change
- **Chapter 15** - Conserving and Enhancing the Natural Environment

Other Guidance Documents:

- Kirklees Highways Design Guide (2019)
- Housebuilders Design Guide (2021) - Nationally Described Space Standards
- National Design Guide
- Biodiversity Net Gain Technical Advice Note (2021)
- Planning Applications Climate Change Guidance (2021)
- West Yorkshire Low Emissions Strategy and Air Quality and Emissions Technical Planning Guidance (2016)

Assessment

1. Principle of Development

The site is without notation on the Kirklees Local Plan. Policy LP1 of the Kirklees Local Plan states that when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in Chapter 2 of the National Planning Policy Framework. Policy LP2 sets out that, in order to protect and enhance the character of places, all development proposals should seek to build on the opportunities and help address the challenges identified in the Local Plan.

The Local Plan identifies a minimum housing requirement of 31,140 homes between 2013 and 2031 to meet identified needs. This equates to 1,730 homes per annum. National planning policy requires local planning authorities to demonstrate five years supply of deliverable housing sites against their housing requirement.

Paragraph 76 of the NPPF states Local Planning Authorities are not required to demonstrate a 5 year land supply if their adopted plan is less than 5 years old and the plan identified at least a five year supply of sites. Therefore, at this moment in time the Council is not required to demonstrate a 5 year land supply until after 28th Feb 2024 (when the Local Plan is more than 5 years old).

On the basis of the above, any applications will need to be dealt with on their own individual merits as the tilted balance does not currently apply as a result of the changes to the NPPF. The judgement in this case will be set out in the officers assessment.

Chapter 5 of the National Planning Policy Framework clearly identifies that Local Authorities should seek to significantly boost the supply of housing. Housing applications should be considered in the context of the presumption in favour of sustainable development. Paragraph 70 of the NPPF recognises that: "Small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly. To promote the development of a good mix of sites local planning authorities should...support the development of windfall sites through their policies and decisions – giving great weight to the benefits of using suitable sites within existing settlements for homes."

The proposal seeks to erect two semi-detached properties within Cleckheaton and would assist in meeting the housing needs of the Council. This would be 'in line' with the aims of Chapter 5 of the NPPF, which states that small developments such as this can make an important contribution to meeting the housing requirement of an area and are often builtout relatively quickly.

In terms of design, Policy LP24 of the Kirklees Local Plan is relevant, in conjunction with Chapter 12 of the National Planning Policy Framework. Policy LP24, together with the Housebuilders Design Guide SPD, suggests that proposals should promote good design by ensuring inter alia that the form, scale, layout, and details of all development respects and enhances the character of the townscape, heritage assets and landscape. Furthermore, it requires that proposals protect the amenity of future and neighbouring occupiers and promote highway safety and sustainability.

In this case, the principle of development is considered acceptable, and the proposal shall now be assessed against all other material planning considerations, including visual and residential amenity, as well as highway safety. These issues along with other policy considerations will be addressed below.

2. Impact on Visual Amenity

The NPPF offers guidance relating to design in Chapter 12 (achieving well designed places) whereby Paragraph 131 provides a principal consideration concerning design which states: *"The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design*

is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.”

Kirklees Local Plan Policies LP1, LP2 and LP24 all seek to achieve good quality, visually attractive, sustainable design to correspond with the scale of development in the local area, thus retaining a sense of local identity. Policy LP24 states that proposals should promote good design by ensuring: *“a. the form, scale, layout and details of all development respects and enhances the character of the townscape, heritage assets and landscape...”*

Paragraph 133 of the NPPF sets out that design guides and codes carry weight in decision making. Of note, Paragraph 139 of the NPPF states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes. Also relevant to this is the Kirklees Housebuilders Design Guide SPD 2021, which aims to ensure future housing development is of high-quality design.

Principle 2 of the Kirklees Housebuilders Design Guide SPD states that: *“New residential development proposals will be expected to respect and enhance the local character of the area by:*

- *Taking cues from the character of the built and natural environment within the locality.*
- *Creating a positive and coherent identity, complementing the surrounding built form in terms of its height, shape, form and architectural details.*
- *Illustrating how landscape opportunities have been used and promote a responsive, appropriate approach to the local context.”*

Further to this, Principle 13 of the Housebuilders Design Guide states that applicants should consider the use of locally prevalent materials and finishing of buildings to reflect the character of the area, whilst Principle 14 notes that the design of openings is expected to relate well to the street frontage and neighbouring properties. Principle 15 states that the design of the roofline should relate well to site context.

The proposed dwellings would be 2.5 storeys in height and would be of a traditional design. The properties would be constructed in reclaimed stone with natural stone heads and cills and would incorporate dual pitched roofs finished in grey slate. Although no details have been provided regard the UPVC window colour, it is noted that the arrangement of fenestration and openings would be typical of this style of dwelling. On this basis, it is

considered that the dwellings would not appear discordant and would harmonise well into the surrounding townscape.

Whilst the proposed dwellings would not adjoin to an existing building line on site, it is noted that there is not a strong building line along South Parade, with some properties close up to the edge of the footway and others set back.. In terms of footprint and massing, the properties would not be out of keeping with the neighbouring dwellings given that the surrounding area lacks coherent character and there is already a degree of variation with regard to scale and design. Therefore, the proposed dwellings would sit comfortably within the existing street scene and against the neighbouring properties.

The application site is also of a sufficient size to support two dwellings as proposed with parking areas and private outdoor amenity spaces to the rear. Furthermore, the development would not appear overly cramped, or cause any undue harm to the character and appearance of the area. Whilst the scale of the dwellings are acceptable, it is considered appropriate to include a condition (should planning permission be granted) removing permitted development rights for any additions to ensure the site does not become overdeveloped.

The submitted plans and application form provide limited information regarding the proposed boundary treatments. Therefore, in the interest of visual amenity and to ensure that a satisfactory appearance of development is achieved upon completion, a condition will be imposed requiring details of the position, height, and materials of all boundary treatments to be submitted to and approved in writing by the Local Planning Authority.

It is therefore considered that, subject to conditions, the proposal would not cause detrimental harm with regard to visual amenity and would accord with the aims of Policy LP24 of the Kirklees Local Plan, Principles 2, 5, 12, 13, 14, and 15 of the Housebuilders Design Guide SPD, and the aims of Chapter 12 of the National Planning Policy Framework.

3. Impact on Residential Amenity of Neighbouring Residents

Sections B and C of Policy LP24 state that alterations to existing buildings should: *“...maintain appropriate distances between buildings’ and ‘...minimise impact on residential amenity of future and neighbouring occupiers.”*

Further to this, Paragraph 135(f) of the National Planning Policy Framework states that planning decisions should ensure that

developments have a high standard of amenity for existing and future users.

Principle 6 of the Kirklees Housebuilders Design Guide SPD states that: *“Residential layouts must ensure adequate privacy and maintain high standards of residential amenity, to avoid negative impacts on light, outlook and to avoid overlooking.”*

The SPD also provides advised separation distances for two storey dwellings:

- 21 metres between facing windows of habitable rooms at the backs of dwellings;
- 12 metres between windows of habitable rooms that face onto windows of a non-habitable room;
- 10.5 metres between a habitable room window and the boundary of adjacent undeveloped land; and
- For a new dwelling located in a regular street pattern that is two storeys or above, there should normally be a minimum of a 2 metres distance from the side wall of the new dwelling to a shared boundary.

Impact on 73 and 75 Westcliffe Road

73 and 75 Westcliffe Road are a pair of two storey semi-detached properties located east of the application site. The submitted plans confirms that the proposed dwellings would occupy a position approximately 26m from the rear elevation of no.73 and approximately 29m from the rear elevation of no.75. Given that the separation distances retained would be substantial, it is considered that there would be no undue harm to the neighbour's residential amenity with regards to overbearing, overshadowing or overlooking impact.

Impact on garden of 83 Whitcliffe Road

The garden of No.83 Whitcliffe Road is located adjacent to the eastern boundary of the application site between the boundary and Nos 73 and 75, however a separation distance of approx. 11m would be achieved between the rear elevations of the proposed dwellings and the boundary with this garden. On this basis, it is considered that there would be no adverse impact upon the residential amenity of the occupants of No.83.

Impact on 167, 169 and 171 South Parade

167, 169 and 171 South Parade are residential properties located west of the application site. The submitted site plan demonstrates that approximately 18m would be retained between the front elevations of the

proposed dwellings and the terrace row opposite. Although the separation distances would fall short of the 21m recommended within the Kirklees Housebuilders Design Guide SPD, it is taken into consideration that the current relationship along South Parade falls short of this distance. Therefore, given that precedence has already been established within the street scene, it is considered that there would be no significant detrimental impact on the amenity of the neighbouring properties as a result of the proposed development.

Impact on 89 Whitcliffe Road

89 Whitcliffe Road is a two storey detached property located north of the application site. The plans confirm that a distance of approximately 4.36m would be retained between the side wall of the proposed dwelling and the common boundary shared with 89 Whitcliffe Road. It is noted that the neighbouring property contains an opening and a modest window within its side elevation which would face towards the proposed dwellings. Although the fenestration proposed in the gable end of the proposed dwellings would serve a secondary kitchen/dining room and an ensuite which is a non-habitable room, a condition requiring the windows to be obscure glazed will be added to the decision notice to prevent any detrimental harm to the neighbouring occupants with regard to residential amenity. Furthermore, the proposed dwellings would extend beyond the rear elevation of 89 Whitcliffe Road. However, the plans confirm that the proposal would accord with the 45 degree rule in relation to the neighbour's rear fenestration. Therefore, it is considered that the proposal would be acceptable in this regard.

Impact on Grove House

Grove House is a two storey detached property located south of the application site. The plans confirm that a distance of approximately 1.61m would be retained between the side wall of the dwelling and the common boundary shared with Grove House. Although this would fall slightly short of the recommended separation distance, it is noted that the neighbouring property contains no fenestration within its side elevation. Furthermore, due to the orientation and relationship of the existing and proposed dwellings, officers consider that there would be no loss of privacy to the neighbouring occupants. Whilst the fenestration proposed in the gable end of the proposed dwellings would serve a secondary kitchen/dining room and an ensuite which is a non-habitable room, a condition requiring the windows to be obscure glazed will be added to the decision notice to prevent any detrimental harm to the neighbouring occupants with regard to residential amenity.

The submitted plans confirm that the proposed dwellings would be set back from the neighbouring property and would therefore extend beyond the rear elevation of Grove House. Whilst the proposed dwellings at first floor level would accord with the 45 degree rule, it is noted that the corner of the single storey rear projection would protrude past the 45 degree angle. However, this element is flat roofed, would have an acceptable projection and would be concealed to some degree by the existing and proposed boundary treatments. For these reasons, it is considered that any impact would be minimal and would not be so significant to warrant a refusal.

It is considered that once occupied the dwellings are unlikely to generate significant levels of noise. However, the site is surrounded by residential properties and the occupiers of these could potentially be disturbed by noise generated during the construction process. Therefore, should the application be approved, a footnote will be imposed limiting such works to between the hours of 7.30am and 6.30pm Monday to Friday, 8am and 1pm on Saturdays with no working permitted on Sundays or Public Holidays.

Having considered the above factors, the development proposed would have an acceptable impact upon the residential amenity of the neighbouring occupants and would comply with Policy LP24 of the Kirklees Local Plan (b) in terms of the amenities of neighbouring properties, KDP 6 & 16 of the Housebuilders Design Guide SPD and Paragraph 135 (f) of the National Planning Policy Framework.

4. Impact on Residential Amenity of Future Occupiers

Consideration must also be given to the amenity of future residents of the proposed dwelling. Taking into account Principle 16 of the Kirklees Housebuilders Design Guide SPD which sets out that:

‘All new homes should aim to be accessible and adaptable homes to meet the changing needs of occupants over time in accordance with Building Regulations’ and that ‘All new build dwellings should have sufficient internal floor space to meet basic lifestyle needs and provide high standards of amenity and living environments for future occupiers in accordance with Policy LP24’.

National described space standards require the following gross internal floor area for a three storey dwelling:

- 3 Bedroom, 4-person dwelling set over 3 storeys - 90 square metres

- 3 Bedroom, 5-person dwelling set over 3 storeys – 99 square metres
- 3 Bedroom, 6-person dwelling set over 3 storeys - 108 square metres

The proposed floor plans show that the properties would have three bedrooms and therefore are required to have an internal floor space of 90m². Both dwellings are shown to have an internal floor space of 120m², which would adequately meet basic lifestyle needs and provide a high standard of amenity for future occupiers. It is also noted that each of the habitable rooms would benefit from a sufficient amount of natural light. Furthermore, private outdoor amenity space and off road parking are proposed to the rear of the dwelling. For these reasons, it is considered that the proposal would provide an acceptable standard of living for future occupants and would accord with LP24(b) of the Kirklees Local Plan, Principles 6 and 16 of the Council's Housebuilders Design Guide SPD, and Paragraph 135 (f) of the National Planning Policy Framework.

5. Impact on Highway Safety

Local Plan Policies LP21 and LP22 of the Kirklees Local Plan are relevant and seek to ensure that proposals do not have a detrimental impact on highway safety and provide sufficient parking. Furthermore, Paragraph 115 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

The application is for the erection of two semi-detached dwellings at land adjacent to 89 Whitcliffe Road. As such, KC Highways Development Management have been formally consulted as part of the application, as the proposal would intensify the domestic use at the site.

Officers have confirmed that two off street parking spaces are proposed to the rear of the site which would meet the recommended parking standards for a 3 bedroomed dwellinghouse. The plans also demonstrate that three off street parking spaces would be provided for 89 Whitcliffe Road. Given that sufficient off-street parking is proposed for both the proposed and existing dwellings, KC Highways Development Management have no objection to the proposal.

Principle 19 of the Housebuilders Design Guide SPD outlines how provision for waste storage and recycling should be incorporated into the design of new developments. The submitted plans demonstrate that bin storage will be provided to the rear of the first plot and adjacent to the gable end of the second plot, which is considered acceptable.

A condition will be added to the decision notice to ensure that the vehicle parking areas will be surfaced and drained in accordance with the Communities and Local Government; and Environment Agencies 'Guidance on the permeable surfacing of front gardens (parking areas)' published 13th May 2009 (ISBN 9781409804864) as amended or superseded. Furthermore, a new vehicular crossing will need to be provided for the proposed driveway. These works would need to be completed via a Section 184 agreement with the Council.

In view of the above, it is considered that the proposal would not cause detrimental harm to the safe and efficient operation of the highway network, in accordance with Policies LP21, LP22 and LP28 of the Kirklees Local Plan, Principles 12 and 19 in the Council's Housebuilders Design Guide SPD, guidance within the Council's Highways Design Guide SPD, and Chapter 9 of the National Planning Policy Framework.

6. Other Matters

Climate Change

On 12th November 2019, the Council adopted a target for achieving 'net zero' carbon emissions by 2038, with an accompanying carbon budget set by the Tyndall Centre for Climate Change Research. National Planning Policy includes a requirement to promote carbon reduction and enhance resilience to climate change through the planning system and these principles have been incorporated into the formulation of Local Plan policies. The Local Plan predates the declaration of a climate emergency and the net zero carbon target. However, it includes a series of policies, which are used to assess the suitability of planning applications in the context of climate change. When determining planning applications, the Council will use the relevant Local Plan policies and guidance documents to embed the climate change agenda.

The Climate Change Statement in support of the application clarifies that each proposed dwelling will be fitted with an EV charging point which satisfies the requirements of the current West Yorkshire Low Emission Strategy (WYLES) document. The applicant is reminded that approval under the Building Regulations may also be required, and the applicant should contact their Building Control Provider for further information in relation to Approved Document S. As such, the proposal complies with the aims of Policies LP24 and LP51 of the KLP and Chapters 9 and 14 of the NPPF, which seek to promote sustainable transport and to support low carbon future.

Construction Noise

Construction noise can give rise to loss of amenity to neighbouring noise sensitive receptors, therefore, it is considered necessary for a footnote to be imposed restricting the times when noisy construction activities will be permitted.

Biodiversity

It is acknowledged that the site falls within the bat alert area as identified by the Council's GIS mapping system, but not within any other area biodiversity layer as set out on the Council's GIS system. Given this, there is not deemed to any obvious, or detrimental biodiversity constraints at the site and therefore KC Ecology raise no objections to the proposals in principle. However, Officers have requested that a condition is added to the decision notice requiring one sparrow and one bat roost box to be installed within the south elevations of the dwellings. This would provide biodiversity enhancement in accordance with Policy LP30 of the KLP.

Drainage

Policy LP28 of the Kirklees Local Plan establishes a hierarchy of drainage solutions with a Sustainable Urban Drainage System being the most preferable solution and Main Sewer the least preferable option. The applicant states in the application form that the surface water is to be discharged via a soakaway; however, no supporting justification has been provided to confirm that the hierarchy of drainage solutions has been considered. In this instance, it is considered reasonable to impose a condition requiring the drainage strategy for the site to follow the hierarchy of sustainable drainage, in accordance with Policy LP28 of the Kirklees Local Plan.

Coal Mining Legacy

The Coal Authority previously objected to this application in a letter dated 2nd August 2023 as no Coal Mining Risk Assessment was submitted by the applicant to support the application. The planning application is now accompanied by a Coal Mining Risk Assessment report (13th December 2023, prepared by The Coal Authority's commercial arm). Based on a review of appropriate sources of coal mining and geological information, the report identifies a medium risk to ground stability at the site due to the probable presence of underground workings beneath the site in the Middleton 11 Yards coal seam. The Planning Team at the Coal Authority concurs with the conclusions of the Coal Mining Risk Assessment report; that coal mining legacy potentially poses a risk to the proposed development and that investigations are required, along with possible remedial measures, in order to ensure the safety and stability of the proposed development.

Contaminated Land

In KC Environmental Health's response dated the 4th of August 2023, Officers required additional information regarding the coal mining legacy at the site. A coal mining risk assessment dated the 13th of December 2023 has since been submitted to support the application. The coal mining risk assessment confirms that shallow coal may be present at low level and therefore the risk of possible mine gas and spontaneous combustion exists. With this in mind further intrusive investigation has been recommended in order to secure safe occupation. Looking at historic mapping (1893), there appears to be a possible quarry across the road from the site. Whilst KC Environmental Health have no objections to the application, in order to fully characterise the site, Officers recommend full conditions in relation to contaminated land.

There are no other matters relevant to the determination of this application.

7. Representations

Five representations were received following the original and amended plans publicity. The comments made have been summarised and addressed below:

- Vehicle Parking - existing property no 89 has seven to eight parking spaces not two as stated in application as such incorrect misleading.

Response: *The proposals potential impact on the highway network has been assessed within the 'Highway Safety' section of the report.*

- The report fails to mention the additional disruption at school drop off and collection as it allows for building work to start at 7am. There will be a direct effect on school parking between 8 and 8.40, which will then cause further noise and traffic disruption to residents.

Response: *Impacts from construction are temporary and would not constitute material planning considerations.*

- It has two spaces in the garage and five or six spaces on the drive. With only two spaces planned for future, there would be a substantial loss of parking to such a large existing house.

Response: *The proposal's potential impact on the highway network has been assessed within the 'Highway Safety' section of the report.*

- The current plan creates six parking spaces for the existing and new residents of the two houses being built, but it removes as many street parking spaces from South Parade as it creates for the new houses.

Response: *The proposal's potential impact on the highway network has been assessed within the 'Highway Safety' section of the report.*

- The plan also underestimates the number of vehicles per household - the existing house is larger than a three bed, so will need more than two spaces.

Response: *The proposal's potential impact on the highway network has been assessed within the 'Highway Safety' section of the report.*

- New build houses are going to spoil the overall aesthetic look and feel of South Parade.

Response: *The proposal's potential impact on the character and appearance of the surrounding area has been assessed within the 'Visual Amenity' section of the report.*

- The additional vehicles will expect to use street parking, adding additional pressure to the existing and reduced residents parking.

Response: *The proposal's potential impact on the highway network has been assessed within the 'Highway Safety' section of the report.*

- Removing spaces from South Parade will push resident and school parking out onto Whitcliffe Road affecting traffic flow, which is already busy/at a standstill at peak times.

Response: *The proposal's potential impact on the highway network has been assessed within the 'Highway Safety' section of the report.*

- The noise, dust levels and all round general disruption that building work inevitably creates will be intolerable.

Response: *Impacts from construction are temporary and would not constitute material planning considerations.*

- It will also increase the likelihood of accidents, given the proximity of the roundabout and the fact that existing issues with dangerous school parking on South Parade will simply move out onto the main road.

Response: *The proposal's potential impact on the highway network has been assessed within the 'Highway Safety' section of the report.*

- Additional parking on Whitcliffe Road and loss of parking on South Parade, will also affect the business at the local shop as there will be less opportunity for passing shop customers to park.

Response: *The proposal's potential impact on the highway network has been assessed within the 'Highway Safety' section of the report.*

- The report does not take into account disruption to residents of the building work.

Response: Impacts from construction are temporary and would not constitute material planning considerations.

- Demolishing a garage and a 7 ft wall, and building a semi-detached house will have much more of a disruptive impact on the school during term time.

Response: *Impacts from construction are temporary and would not constitute material planning considerations.*

- It would further limit parking for residents and would make it even more difficult for parents dropping and picking their children up from school.

Response: *The proposal's potential impact on the highway network has been assessed within the 'Highway Safety' section of the report.*

- It would make it near impossible for the access bus to go up and down South Parade like it currently does.

Response: *The proposal's potential impact on the highway network has been assessed within the 'Highway Safety' section of the report.*

- This would cause a lot of disruption to the already crammed street and after discussion with some neighbours, we would all feel strongly about this NOT taking place.

Response: *The proposal's potential impact on the highway network has been assessed within the 'Highway Safety' section of the report.*

- Currently, there is not much room to manoeuvre my car when reversing into my drive as there are always existing neighbours cars parked directly opposite, but as more vehicles would be parking on the road, it will become near impossible to reverse into the drive.

Response: *The proposal's potential impact on the highway network has been assessed within the 'Highway Safety' section of the report.*

- When any of the neighbours have visitors, again, this creates more parking chaos on the street. Additional houses, even though they have their own parking their visitors would need to park on the street, therefore creating more parking chaos.

Response: *The proposal's potential impact on the highway network has been assessed within the 'Highway Safety' section of the report.*

- Not to mention there will be even more parking chaos on the street as work vans and delivery vehicles will surely all need somewhere to park/offload.

Response: *Impacts from construction are temporary and would not constitute material planning considerations.*

- All the houses on this street are of a Victorian nature and new houses are going to stand out like a sore thumb.

Response: *The proposal's potential impact on the character and appearance of the surrounding area has been assessed within the 'Visual Amenity' section of the report.*

- The positioning, density and scale of the development will substantially block out the sunlight currently enjoyed into the front bay windows, patio and garden area at 3 Grove House.

Response: *The proposal's potential impact to the neighbouring properties has been assessed within the 'Residential Amenity' section of the report.*

- The noise, dust levels and all round general disruption that building work inevitably creates will be intolerable.

Response: *Impacts from construction are temporary and would not constitute material planning considerations.*

- The siting of the dwellings just 1.6m from the boundary with Grove House would have a significant impact on residential amenity through overshadowing and overdominance.

Response: *The proposal's potential impact to the neighbouring properties has been assessed within the 'Residential Amenity' section of the report.*

- It would also create problems in the future in terms of their being insufficient room for maintenance and also potential fire spread risks from the closeness of the two properties.

Response: *These matters would not constitute material planning considerations*

- It is noted also that kitchen windows are shown in the side elevation of the plot facing towards Grove House. Whilst the drawings indicate that these will be obscure glazed this is not an ideal solution to overcome what is a shortfall in minimum distance standards.

Response: *The proposal's potential impact to the neighbouring properties has been assessed within the 'Residential Amenity' section of the report.*

- The proposed semi-detached dwellings would be set back some distance from South Parade and will project further to the rear, which would be out of keeping with the general grain of the area and the character and layout of existing buildings.

Response: *The proposal's potential impact on the character and appearance of the surrounding area has been assessed within the 'Visual Amenity' section of the report.*

- The impact of providing parking at the rear of the site, has resulted in garden space being lost. For three bedroom dwellings, the level of garden space provided is inadequate and would not provide a high standard of amenity for future occupants.

Response: *The proposal's potential impact on occupier amenity has been assessed within the 'Residential Amenity of Future Occupiers' section of the report.*

- The parking layout, whilst in theory providing sufficient parking for the houses, is by necessity of the siting of the dwellings, set out in a tandem form, which in practice does not work and would likely result in vehicles parking on the roadside rather than in the spaces proposed.

Response: *The proposal's potential impact on the highway network has been assessed within the 'Highway Safety' section of the report.*

- The provision of pedestrian footpaths to the dwellings at the front from South Parade would also encourage roadside parking.

Response: *The proposal's potential impact on the highway network has been assessed within the 'Highway Safety' section of the report.*

- The development would add further parking onto the street and this would be to the detriment of highway safety.

Response: *The proposal's potential impact on the highway network has been assessed within the 'Highway Safety' section of the report.*

8. Negotiations

Amendments were sought during the course of the application. Following KC Highway's consultation response, a request was made to alter the parking layout to provide four off street parking spaces for the proposed dwellings and two off road parking spaces for the existing dwelling to the rear of the site. Additional information was provided which was reviewed and considered acceptable with regard to highway safety.

9. Conclusion

The NPPF has introduced a presumption in favour of sustainable development. The policies set out in the NPPF taken as a whole constitute the Government's view of what sustainable development means in practice.

As set out above, this application has been assessed against relevant policies in the development plan and other material considerations. It is considered that the development would constitute sustainable development and is therefore recommended for approval.

Recommendation: Approve

Decision Authorisation - Delegated Powers

Application Number: 2023/92066

Officer Recommendation: Approve

Conditions and Reasons

1. The development hereby permitted shall be begun within three years of the date of this permission.

Reason: Pursuant to the requirements of Section 91 of the Town and Country Planning Act 1990

2. The development hereby permitted shall be carried out in complete accordance with the plans and specifications schedule listed in this decision notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.

Reason: For the avoidance of doubt as to what is being permitted and to ensure the satisfactory appearance of the development on completion, and to accord with Policies LP1, LP2, LP3, LP7, LP11, LP20, LP21, LP22, LP24, LP26, LP28, LP30, LP33, LP51, LP52 and LP53 of the Kirklees Local Plan and the aims of the National Planning Policy Framework.

3. The semi-detached dwellings hereby approved shall be faced in reclaimed stone for the external walls and grey slate for the roof. The materials of construction shall thereafter be retained for the lifetime of the development.

Reason: In the interests of visual amenity and to accord with Policy LP24 of the Kirklees Local Plan, Principle 13 of the Council's Housebuilders Design Guide SPD, and the aims of Chapter 12 of the National Planning Policy Framework.

4. Prior to development commencing on the superstructure of the dwellings hereby approved, details of all the external facing and roofing materials shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details and retained as such.

Reason: This pre-commencement condition is in the interest of visual amenity and to comply with Policy LP24 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

5. Notwithstanding the submitted plans and information, before development commences on the superstructure of the dwellings hereby approved, full details of all boundary treatments shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be completed in accordance with the approved details before the dwelling is first brought into use and thereafter retained.

Reason: This pre-commencement condition is in the interest of visual and residential amenity, in accordance with Policy LP24 of the Kirklees Local Plan, Principles of the Housebuilders Design Guide Supplementary Planning Document and Chapters 12 and 13 of the National Planning Policy Framework.

6. Groundworks shall not commence until actual or potential land contamination at the site has been investigated and a Preliminary Risk Assessment (Phase I Desk Study Report) by a suitably competent person has been submitted to and approved in writing by the Local Planning Authority.

Reason: This pre-commencement condition is necessary to ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and Paragraph nos. 189 and 190 of the National Planning Policy Framework.

7. Where further intrusive investigation is recommended in the Preliminary Risk Assessment approved pursuant to condition 6 groundworks (other than those required for a site investigation report) shall not commence until a Phase II Intrusive Site Investigation Report by a suitably competent person has been submitted to and approved in writing by the Local Planning Authority.

Reason: This pre-commencement condition is necessary to ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and Paragraph nos. 189 and 190 of the National Planning Policy Framework

8. Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to condition 7 further groundworks shall not commence until a Remediation Strategy by a suitably competent person has been submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures.

Reason: This pre-commencement condition is necessary to ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and Paragraph nos. 189 and 190 of the National Planning Policy Framework.

9. Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to condition 8. In the event that remediation is unable to proceed in accordance with the approved Remediation Strategy or contamination not previously considered [in either the Preliminary Risk Assessment or the Phase II Intrusive Site Investigation Report] is identified or encountered on site, all groundworks in the affected area (except for site investigation works) shall cease immediately and the Local Planning Authority shall be notified in writing within 2 working days. Works shall not recommence until proposed revisions to the Remediation Strategy have been submitted to and approved in writing by the Local Planning Authority. Remediation of the site shall thereafter be carried out in accordance with the approved revised Remediation Strategy.

Reason: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and Paragraph nos. 189 and 190 of the National Planning Policy Framework.

10. Following completion of any measures identified in the approved Remediation Strategy or any approved revised Remediation Strategy a Verification Report by a suitably competent person shall be submitted to the Local Planning Authority. No part of the site shall be brought into use until such time as the remediation measures have been completed for the site in accordance with the approved Remediation Strategy or the approved revised Remediation Strategy and a Verification Report in respect of those remediation measures has been approved in writing by the Local Planning Authority.

Reason: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and Paragraph nos. 189 and 190 of the National Planning Policy Framework.

11. Prior to development commencing on the superstructure of the dwellings hereby approved, a plan detailing the positioning, location and specification of one house sparrow (Schwegler 1SP sparrow terrace, or similar) and one bat roost box (Schwegler 1FE bat box, or similar) installed on or integral to the south elevation shall be submitted to and approved in writing to the local authority. The boxes shall be installed and retained as detailed in the approved plans.

Reason: In order to provide an enhancement to biodiversity in line with Policy LP30 and the requirements of section 15 of the National Planning Policy Framework.

12. No development shall commence until;

- a) a scheme of intrusive investigations has been carried out on site to establish the risks posed to the development by past shallow coal mining activity; and
- b) any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is made safe and stable for the development proposed. The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.

Reason: This pre-commencement condition is necessary to ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and Paragraph nos. 189 and 190 of the National Planning Policy Framework.

13. Prior to the occupation of the development, or it being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

Reason: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and Paragraph nos. 189 and 190 of the National Planning Policy Framework.

14. The development shall not be brought into use until the areas to be used by vehicles and/or pedestrians have been surfaced and drained in accordance with the Communities and Local Government; and Environment Agency's 'Guidance on the permeable surfacing of front gardens (parking areas)' published 2009 (ISBN as amended or any successor guidance). The parking space shall be so retained, free of obstructions and available for the use thereafter.

Reason: In the interests of highway safety and to ensure satisfactory surface water drainage of the site in accordance with Policy LP21 and LP28 of the Kirklees Local Plan and the aims of the National Planning Policy Framework.

15. Notwithstanding the submitted details, the surface water drainage strategy for the site shall be developed in accordance with the hierarchy of drainage and where soakaways are proposed, testing shall be provided to demonstrate that they are a suitable option for the site. The drainage works shall be completed in full before the approved dwelling is first occupied and shall thereafter be satisfactorily retained at all times.

Reason: To ensure the provision of an adequate drainage system in the interests of amenity, environmental well-being, and to accord with Policies LP24, LP28 and LP52 of the Kirklees Local Plan and Chapter 14 of the National Planning Policy Framework.

16. The proposed first floor and ground floor windows in the side elevations of the dwellings shall be fitted with obscure glazing to at least Level 3 on the Pilkington Scale and non-opening to a height of no less than 1.7m above floor level and retained as such thereafter.

Reason: In the interests of residential amenity and to accord with Policy LP24 of the Kirklees Local Plan and the Housebuilders Design Guide SPD.

17. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order (with or without modification)) no development included within Classes A through E of Part 1 of Schedule 2 to that Order shall be carried out without the prior written consent of the Local Planning Authority.

Reason: In the interests of visual amenity and to avoid overdevelopment in accordance with Policy LP24 of the Kirklees Local Plan and the National Planning Policy Framework.

NOTE: All contamination reports shall be prepared by a suitably competent person, as defined in Annex 2 of the National Planning Policy Framework 2021. Reports must be prepared in accordance with the following guidance:

- *Land Contamination Risk Management (LCRM)*
- BS 10175:2011+ A2:2017 *Investigation of Potentially Contaminated Sites. Code of Practice*
- *Development on Land Affected by Contamination - Technical Guidance for Developers, Landowners & Consultants - (v11.2) June 2020* by the Yorkshire and Lincolnshire Pollution Advisory Group.

The conditions relate to Planning Control only. Approval under the Building Regulations may also be required, and the applicant should contact their Building Control Provider for further information. Any other necessary consent must be obtained from the appropriate authority.

NOTE: The changes to the access within the adopted highway fronting the property, to provide a dropped kerb, will need to be constructed under a section 184 agreement of the 1980 Highways Act (vehicle crossings over footways and verges). You are required to consult the Design Engineer (Kirklees Street Scene: 01484 221000) with regard to obtaining this permission and approval of the construction specification. Interference with the highway without such permission is an offence which could lead to prosecution.

NOTE: Where SUDs are proposed as part of the development scheme consideration will need to be given to the implications of this in relation to the stability and public safety risks posed by coal mining legacy. The developer should seek their own advice from a technically competent person to ensure that a proper assessment has been made of the potential interaction between hydrology, the proposed drainage system and ground stability, including the implications this may have for any mine workings which may be present beneath the site.

NOTE: It should be noted that wherever coal resources or coal mine features exist at shallow depth or at the surface, there is the potential for mine gases to exist. These risks should always be considered by the LPA. The Planning & Development team at the Coal Authority, in its role of statutory consultee in the planning process, only comments on gas issues if our data indicates that gas emissions have been recorded on the site. However, the absence of such a comment should not be interpreted to imply that there are no gas risks present. Whether or not specific emissions have been noted by the Coal Authority, local planning authorities should seek their own technical advice on the gas hazards that may exist, and appropriate measures to be implemented, from technically competent personnel.

NOTE: Due to its location, a bat roost may be present on site. Bats are a European protected species under regulation 41 of the Conservation of Habitats and Species Regulations 2010. It is an offence for anyone intentionally to kill, injure or handle a bat, disturb a roosting bat, or sell or offer a bat for sale without a licence. It is also an offence to damage, destroy or obstruct access to any place used by bats for shelter, whether they are present or not.

NOTE: Kirklees Council has powers under Section 60 of the Control of Pollution Act 1974 to control noise from construction sites and may serve a notice imposing requirements on the way in which construction works are to be carried out. It has additional powers under Sections 80 of the Environmental Protection Act 1990 to prevent statutory nuisance including

noise, dust, smoke and artificial light and must serve an abatement notice when it is satisfied that a statutory nuisance exists or is likely to occur or recur. Failure to comply with a notice served using the above-mentioned legislation would be an offence for which the maximum fine on summary conviction is unlimited.

NOTE: The granting of planning permission does not override any private legal rights or consents that may be required. It is the responsibility of the applicant / developer to ensure that all appropriate consents are in place prior to any development commencing; during the period of construction existing access for neighbouring properties is maintained; and no damage is caused to the access driveway or surrounding properties.

NOTE: To minimise noise disturbance at nearby premises it is generally recommended that activities relating to the erection, construction, alteration, repair or maintenance of buildings, structures or roads shall not take place outside the hours of:

- 07.30 and 18.30 hours, Mondays to Fridays
- 08.00 and 13.00hours, Saturdays
- With no working Sundays or Public Holidays

In some cases, different site-specific hours of operation may be appropriate. Under the Control of Pollution Act 1974, Section 60 Kirklees Environment and Transportation Services can control noise from construction sites by serving a notice. This notice can specify the hours during which the works may be carried out.

Plans and specifications schedule:

Plan Type	Reference	Revision	Date Received
Proposed Site Plan and Elevations	201	C	26/10/2023
Proposed Floor Plans and Elevations	202	B	16/10/2023
Proposed Drainage and Planting	203	A	16/10/2023
Coal Mining Risk Assessment	1.1	-	04/01/2024
Climate Change Statement	-	-	18/07/2023
Design and Access Statement	1406	-	18/07/2023

Pursuant to article 35 (2) of the Town and Country Planning (Development Management Procedure) Order 2015 and guidance in the National Planning Policy Framework, the Local Planning Authority have, where possible, made a pre-application advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application. Amendments were sought during

the course of the application, following comments from KC Highways. Additional information was provided which was considered acceptable with regard to highway safety. Furthermore, the agent has also confirmed their agreement to the pre-commencement conditions.

Dated: 31/01/2024